IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2609 OF 2005
(PUBLIC INTEREST LITIGATION)

Sudarshan Shetty & anr .. Petitioners

versus

The President, Bilawar Association
& ors .. Respondents

Mr.H.V.Kode for Petitioners

Mr.Pradeep Sancheti a/w Mr.Niranjan Jagtap i.b M/s N.Jagtap & Co for Respondent no.1

Ms.V.K.Khatau for BMC

Mr.Amjad Sayyed,Assistant Government Pleader for Respondent nos. 3 to 7

CORAM : R.M. LODHA AND
D.G.KARNIK, JJ

DATED : 14th December, 2005

P.C.

Heard Mr.H.V.Kode, learned counsel for the petitioners and Mr.Pradeep Sancheti learned counsel for the respondent no.1.

2. The petitioners by means of this Writ Petition seek to challenge the construction of the 5th and 6th floor in the building constructed on C.T.S. No.116, Anand Nagar, Santacruz (East) Mumbai. According to the petitioners, construction of 5th and 6th floor is in gross violation of the allotment and the building permission granted to

the respondent no. 1.

3. In response to the Writ Petition, the respondent no. 1 has filed the reply affidavit and placed therewith the revised plan dated 18th February, 2005. It is seen from the revised plan that construction of the 5th and 6th floor have been permitted by the Municipal Corporation. Obviously the additional construction of 5th and 6th floors by the respondent no.1 has to be in conformity with the revised plan approved by the Mumbai Municipal Corporation. In our view, the aspect as to whether the construction of 5th and 6th floor is in violation of revised plan or not has to be examined by the Municipal Corporation. If the respondent no.1 has put up any construction in breach of the permission granted by the Mumbai Municipal Corporation obviously action needs to be taken against unauthorised construction. We, accordingly, grant liberty to the petitioners to file proper complaint before the respondent no.2 or the concerned authority of the Mumbai Municipal Corporation for appropriate action.

4. We observe that if such a complaint is made by the petitioners to the Mumbai Municipal Corporation or the concerned authority, prompt action shall be taken thereon and the decision

shall be intimated to the petitioners.

5. No further order deserves to be passed.

6. With the aforesaid observations, the Writ Petition is disposed of.

(R.M. LODHA, J)

(D.G. KARNIK, J)